

REMARKS

Claims 1 and 2-7 are pending in this application. By this Amendment, claim 3 is canceled without prejudice to or disclaimer of the subject matter set forth therein. Also by this Amendment, claim 1 is amended to incorporate the subject matter of canceled claim 3. No new matter is added by these amendments.

I. Rejections Under 35 U.S.C. §102

The Office Action rejects claim 1 under 35 U.S.C. §102(b) over U.S. Patent 4,718,891 to Lipps. Because claim 1 has been amended to include the limitations of non-rejected claim 3, the rejection is moot and should be withdrawn.

The Office Action rejects claims 1 and 3 under 35 U.S.C. §102(e) over U.S. Patent 6,200,485 to Kitaevich et al. Applicants respectfully traverse this rejection.

Claim 1 sets forth a “dialyzing apparatus comprising: a dialyzer which removes water from blood of a patient at a water-remove rate during a dialysis operation; a blood-pressure-change-related-information obtaining device which obtains a plurality of sorts of blood-pressure- change-related information each of which is related to a change of a blood pressure of the patient during the dialysis operation; and a water-remove-rate control device which comprises (a) a weighted-value determining means for determining, for each of the plurality of sorts of blood-pressure-change-related information, a weighted value corresponding to a change of said each sort of blood-pressure-change-related information; (b) a water-remove-rate-control-amount determining means for determining a water-remove-rate control amount based on a sum of the respective weighted values determined for the plurality of sorts of blood-pressure-change-related information; and (c) a control means for controlling the water-remove rate of the dialyzer, according to the water-remove-rate control amount determined by the water-remove-rate-control-amount determining means.” Such an apparatus is not disclosed in Kitaevich.

In order to anticipate a claimed invention, the reference must disclose, in specific embodiments, all of the limitations of the claimed invention. That is, a prior art reference anticipates the claimed invention only where all claimed elements or steps of the claimed invention are disclosed, either expressly or inherently, in the reference. Scripps Clinic & Research Foundation v. Genentech, Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991); In re Marshall, 577 F.2d 301, 198 USPQ 344 (CCPA 1978). Kitaevich does not disclose, in specific embodiments, each and every limitation of the invention of claim 1, and thus cannot anticipate claim 1.

Kitaevich discloses a dialyzing apparatus including a dialyzer that may remove water from blood; a monitor for monitoring a blood-pressure-change-related-information parameter, such as the patient's blood pressure, heart rate, systemic vascular resistance, or cardiac output; and a controller for changing the water removal rate based on weight signals from infusate, drained fluid and patient weight, and on the blood-pressure-change-related-information.

However, Kitaevich does not disclose that the water-remove-rate control device includes a weighted-value determining means for determining, for each of the plurality of sorts of blood-pressure-change-related information, a weighted value corresponding to a change of said each sort of blood-pressure-change-related information, and a water-remove-rate-control-amount determining means for determining a water-remove-rate control amount based on a sum of the respective weighted values determined for the plurality of sorts of blood-pressure-change-related information, as set forth in claim 1.

The weighted values of claim 1 are evaluated values corresponding to a change in each of the plurality of sorts of blood-pressure-change-related information and are determined for each sort of blood-pressure-change-related information. See Specification, paragraph [0035]. However, the "weight signals" disclosed in Kitaevich represent the weight of infusate

in reservoir 50 and the weight of drained fluid in reservoir 74. See Kitaevich, col. 7, line 67 - col. 8, line 26.

Thus, Kitaevich fails to disclose the water-remove-rate control device according to claim 1. Accordingly, Applicants respectfully submit that claim 1 is patentable over Kitaevich. Reconsideration and withdrawal of the rejection of claim 1 over Kitaevich is respectfully requested.

II. Rejections Under 35 U.S.C. §103(a)

The Office Action rejects claims 2 and 4-7 under 35 U.S.C. §103(a) over U.S. Patent 6,200,485 to Kitaevich et al. in view of European Patent Application 956815 to Inukai et al. Applicants respectfully traverse this rejection.

Claim 1 is as set forth above. Claims 2 and 4-7 depend, directly or indirectly from claim 1.

As discussed above, Kitaevich does not disclose that the water-remove-rate control device includes a weighted-value determining means for determining, for each of the plurality of sorts of blood-pressure-change-related information, a weighted value corresponding to a change of said each sort of blood-pressure-change-related information, and a water-remove-rate-control-amount determining means for determining a water-remove-rate control amount based on a sum of the respective weighted values determined for the plurality of sorts of blood-pressure-change-related information, as set forth in claim 1. Further, Kitaevich does not provide any suggestion to modify the water-remove-rate-control device to determine weighted values for each sort of blood-pressure-change-related information monitored.

Accordingly, Kitaevich alone would not have rendered claim 1, or its dependent claims 2 and 4-7, obvious. Inukai does not provide the information or motivation missing from Kitaevich.

Regardless of its actual teachings, Inukai does not teach or suggest a water-remove-rate control device includes a weighted-value determining means for determining, for each of the plurality of sorts of blood-pressure-change-related information, or a water-remove-rate-control-amount determining means for determining a water-remove-rate control amount based on a sum of the respective weighted values determined for the plurality of sorts of blood-pressure-change-related information, as set forth in claim 1. Accordingly, Inukai does not remedy the shortcomings of Kitaevich.

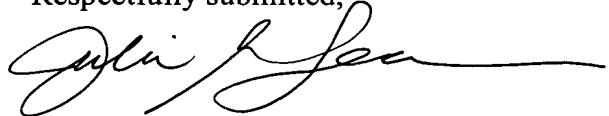
Accordingly, Applicants respectfully submit that claims 2 and 4-7 are patentable over Kitaevich even in view of Inukai. Thus, reconsideration and withdrawal of this rejection is respectfully requested.

III. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1 and 2-7 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Julie M. Seaman
Registration No. 51,156

JAO:JMS/jcp

Date: December 16, 2003

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE
AUTHORIZATION
Please grant any extension
necessary for entry;
Charge any fee due to our
Deposit Account No. 15-0461